



G-G PICK BRINGS MODEL INTO FOCUS

'Activism' is not a dirty word

The announcement in early April of the appointment of businesswoman Samantha Mostyn as Australia's 28th Governor-General sparked some negative responses from some conservative commentators.

News that the Albanese Government had picked Ms Mostyn saw those commentators focus on her so-called "activism" in public debate on issues such as climate change and gender equality.

The news prompted comments about the need for Ms Mostyn to reject any continued and supposedly divisive "activism" when she takes over from current Governor-General David Hurley in July.

But Ms Mostyn will most likely meet the great challenge to unite Australians judging by the example of our first female Governor-General Quentin Bryce.

Like Mostyn, Bryce was also engaged in progressive public policy issues before her appointment by then prime minister Kevin Rudd. She proved that such a track record was no barrier to exemplary public service as the representative of our current head of state, the British monarch.

By **DAVID MUIR AM**
Chair



Both eminent women together with others like former Governor of Western Australia Kim Beazley have served in vice-regal roles with distinction while having republican views.

Besides, what's wrong with activism of the non-partisan kind by such individuals in such positions?

The current directly elected President of Ireland, [Michael Higgins](#), is a former politician who has been fairly described as an activist in his current office by fostering genuine and productive public debates on serious yet non-partisan issues.

Now in his second and final seven-year term, he has proved it is possible to jettison party political positions in favour of encouraging a nation's citizens to engage in discussing such matters.



From top: Sam Mostyn, Quentin Bryce, and Michael Higgins



CONTINUED NEXT PAGE:

What is the future for referendums?



An a-mace-ing question

See page 3

See page 4

SPECIAL REPORT



THE IRISH REFERENDUMS....

What went right. What went wrong. What are the lessons for us?

Starts page 5



Ireland's elected President provides a role model for us

FROM PREVIOUS PAGE:

Higgins was first elected in November 2011 and secured a second term in November 2018.

He is a former Lord Mayor of Galway, a member of the Irish Parliament for 25 years, a Senator for nine years, a former Labour Party cabinet minister, and a lecturer in political science and sociology at Irish and US universities.

The Real Republic Australia continues to advocate for a genuine directly elected head of state and can point to Ireland for an example where such a system works well within a traditional Westminster-style parliamentary democracy.

The Irish President exercises powers and functions conferred on the office by the Irish Constitution and by law.

With specified exceptions, the functions of the President are performed on the advice of the Prime Minister and government.

This type of codification of powers means the Irish President has a distinct non-political role and is not a rival source of power to the Irish Prime Minister.

If anything, codification means the Irish President is an alternative source of influence and ideas, as opposed to power, on matters of national interest or concern.

Michael Higgins has initiated a wide range of public activities and public debates to focus attention on specific and non-partisan social issues or challenges.

President Higgins has also assisted charities

and non-government organisations by helping to publicise their work and advocate for their roles.

His predecessors such as Mary Robinson (in office 1990-1997) and Mary McAleese (1997-2011) who like President Higgins were former politicians also took an apolitical approach to the role while providing a strong voice on social issues.

The Irish example shows that a directly elected head of state in an Australian republic working within a framework of codified powers and fulfilling a non-partisan role, could also embrace key apolitical social issues and debates that may impact all Australians.

The advent of a directly elected head of state in an Australian republic offers a chance to redefine the role. The last thing we want or need is a do-little individual in the job.

In the meantime those selected to represent our current head of state as Governor-General should not be criticised for any past "activism" on genuine public issues.

The secret to their success, apart from their personal qualities, remains their discretion and understanding of their role as representative of the monarch without partisan expression.

We also see nothing to criticise in any personal support they may have for the republic cause, given that the British royals themselves view it as an issue we as Australians should resolve and that they will accept our decision.



Irish President Michael Higgins

HIGGINS TAKES THE INITIATIVE

Some of the national initiatives taken by President Michael Higgins have included:

- involving [young Irish people in a series of presidential seminars](#) to consider and share their vision for the nation's future,
- the [Ethics Initiative](#) promoting discussion about living and working ethically and determining what values and actions Ireland and its people should embrace,
- gathering a number of renowned Irish writers, musicians, and singers, as well as emerging artists to [make a special program for international broadcast](#) celebrating the nation's unique talents and creativity,
- [Shared Ireland, Shared Island](#) fostering discussion on how the nation's citizens could live in harmony and respect its complex history,
- [Imagination and the Nation](#) highlighting the role of art and creativity in the evolution of Ireland,
- [Participation and Transformation](#) promoting a more inclusive society.



Irish President Michael Higgins joins delegates at one of his youth seminars (left) and attends a workshop held as part of his ethics initiative

The future of referendums after the Voice

The Real Republic Australia recently took part in a panel discussion on the prospects for constitutional referendums following the outcome of the Voice to Parliament proposal last October.

The 15 April event was hosted by the Australasian Study of Parliament Group's Queensland chapter (ASPG(Q)) at the Queensland Parliament. Speakers included :

- Dr Peta Stephenson, lecturer in constitutional law at QUT,
- David Muir, chair of the Real Republic Australia,
- Chris Whiting, [Member for Bancroft](#), and
- Professor Nicholas Aroney, professor of constitutional law at the University of Queensland.

The discussion was moderated by Murray Hancock from the [Brisbane Dialogues](#).

David Muir said achieving beneficial changes to the Constitution was a challenging task and cited research by Brisbane-based analysts DemosAU prior to the Voice referendum that identified four broad attitudes to constitutional reform among voters:

- roughly 30% of the electorate saying the Constitution needed reform,
- roughly 30% saying don't touch it – it's working well,
- roughly 20% open to constitutional change but only to fix an identified problem – a group likely to be swayed by the "if it ain't broke don't fix it" argument, and
- the remaining 20% who say they don't know enough about Australia's Constitution to offer a view on reform – a segment that could be open to the "if you don't know vote no" argument.

Panellists agreed on the need for better civics education to better inform voters of their roles and responsibilities in the referendum process.

Dr Stephenson said the Voice referendum showed the problem of leaving such education to the last minute before a referendum.

Chris Whiting said there was a need to build a broad coalition within society if there were to be future changes to the Constitution.

But, he warned, it could not be achieved if the community was mired in "culture wars".



Dr Peta Stephenson, David Muir, Murray Hancock, Chris Whiting MP, Professor Nicholas Aroney, and ASPG(Q) chair Diana McCluskey with the group's secretary Dr Kit Kowal

Check the Australasian Study of Parliament Queensland Chapter's website for a [transcript of the discussion](#).



Murray Hancock and Chris Whiting listen as Professor Nicholas Aroney makes a point

Professor Aroney pointed out that there were other ways to change the Australian Constitution apart from national referendums.

He said the framers of the original document had included the wording "Until the Parliament otherwise provides" prior to a number of sections which enabled some changes to be made by legislation.

The need for a better, more effective process for considering constitutional changes was discussed. Mr Muir outlined the Real Republic Australia's preference for a system similar to the Citizens' Assemblies used in Ireland to assess referendum proposals as well as to examine potentially contentious changes to public policy.

He said the Irish system – the basis for the Real Republic Australia's suggestion for a series of Australian Constitutional Assemblies – was based on the idea of bringing together 99 average voters broadly representative of the wider community plus an expert chair to consider reform proposals in a non-partisan manner.

Dr Stephenson raised the idea of staging regular constitutional conventions to educate and inform and engage the public and to normalise the idea and language of constitutional change.

Prompted by questions from the floor, panellists considered the terminology used to described the defeat of any referendum question.

An audience member made the point that while only eight out of 45 referendum question had been approved by Australian voters, the outcome in the remaining 37 did not necessarily qualify as "losses" since advocates of a "no" vote would view the result as a success.

DEMOS AU
It Starts With Better Data

[Read the DemosAU report
Voice to Parliament Research
– What Drove the No Victory](#)



In this edition a reader has raised a question about the impact a shift to an Australian republic may have on a well-known symbol of authority that plays a role ceremonial role in parliaments at the federal and state and territory levels.

Any space for a mace in a republic?

QUESTION:

This isn't a subject covered in your discussion paper on your model for a republic, but I was hoping for an answer anyway.

I read on the Australian Parliament's website that the mace of the House of Representatives is the symbol "not only of the Royal authority but of the authority of the House".

The website also says that the mace "also symbolises the authority of the Speaker".

So if Australia becomes a republic do we do away with the mace?

Why would we need to hang on to it if it a symbol of royal authority and we move away from the monarchy to become a republic?

DK – Adelaide

ANSWER:

The mace is indeed a symbol of royal authority as well as symbolising the authority of our elected parliaments – and others around the world.

The Australian Parliament's Parliamentary Education Office provides an interesting and informative [background note](#) about the mace.

In short, it's a far more upmarket and less deadly version of maces commonly used to inflict death or injury on opponents in battle.

Its origins date to medieval times when a mace stamped with a royal insignia or topped with a crown was carried by the monarch's sergeants-at-arms to signify their authority. The mace of the House of Representatives – whose crown always points to the government benches when in place on the chamber's centre table – symbolises the authority of the monarch as our current head of state.

It also symbolises the authority of the House of Representatives and the Speaker.



The mace in the House of Representatives

The current mace of the Australian Parliament is a gift from the UK House of Commons and was presented in 1951.

Australia's state and territory parliaments have their own maces.

The ACT Parliament has had its own [mace](#) only since 2004 which is made of stainless steel and local Yellow Box timber with carvings of local flora.

Although the origins of our mace are British, and the mace itself has design elements linking it to Australia's current status as a constitutional monarchy, other nations which are republics also have maces.

For example, the House of Representatives in the United States has its own mace – topped with a silver globe and an eagle with its wings spread.

Many of the republics that are members of the Commonwealth such as Singapore, Fiji, India, Trinidad and Tobago, [South Africa](#), and others have ceremonial maces that do not necessarily feature "royal" elements in their designs.

So constitutional monarchies do not have a monopoly on parliamentary maces.

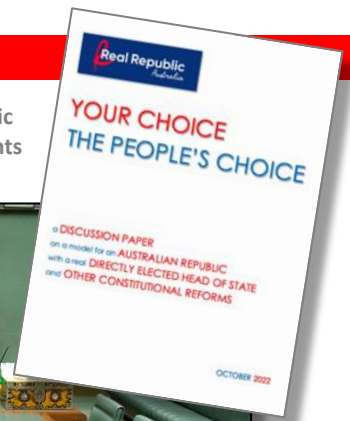
A future Australian republic could adopt a new mace of a design that would better reflect its new, genuinely independent status.



Mace of the US House of Representatives



Mace of the ACT Parliament



To read our discussion paper visit realrepublic.au.



To let us know your ideas: info@realrepublic.au

From go to whoa ...and two noes!

Two proposed amendments to the Irish Constitution were defeated at referendums held on 8 March. The Real Republic Australia believes it is instructive to examine the steps leading up to referendum day including the role played by the Citizens' Assembly used in the process of assessing and recommending such changes. In the following pages we track the development of the referendum proposals and present the views of Irish commentators on why they believed voters did not embrace the proposed changes. On page 11 we outline Our View and the lessons we believe arise from the Irish experience for any future referendums in Australia.

Lindsay Marshall, Editor



An Tionól
Saoránach



The Citizens'
Assembly

An Irish Citizens' Assembly at work

The Citizens' Assembly on Gender Equality was asked by the Irish Parliament to consider issues previously examined but not resolved by the [2013-2014 Convention on the Constitution](#) and the [2016-2018 Citizens' Assembly](#) that examined a number of constitutional issues.

CREATION:

In June 2019 the Irish Government decided to establish a [Citizens' Assembly on Gender Equality](#) and in July the Irish Parliament passed a [resolution](#) requiring the Assembly to consider and make recommendations to advance gender equality by bringing forward proposals that:

- challenge the remaining barriers and social norms and attitudes that facilitate gender discrimination towards girls and boys, women, and men,
- identify and dismantle economic and salary norms that result in gender inequalities, and reassess the economic value placed on work traditionally held by women,
- in particular, seek to ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in the workplace, politics and public life,
- recognise the importance of early years parental care and seek to facilitate greater work-life balance,
- examine the social responsibility of care and women and men's co-responsibility for care, especially within the family, and
- scrutinise the structural pay inequalities that result in women being disproportionately represented in low pay sectors.

The parliamentary resolution [also declared](#) that:

- the Assembly would consist of 100 people including a chair appointed by the government and 99 citizens entitled to vote at a referendum and recruited at national level and randomly selected in accordance with best recruitment practice, as advised by industry experts, so as to be broadly representative of Irish society,
- no politicians would be a member of the Assembly,

- the chair would be appointed for 12 months,
- other Assembly members would be appointed for six months, and
- the Assembly's work program would be developed in accordance with these arrangements with the option of adjustments due to unforeseen circumstances.

GETTING READY:

Prior to the Assembly beginning its work the following [public tenders](#) were called by the Irish Government seeking:

- a market research firm to provide a representative sample of 99 members of the public and substitutes for the Assembly,
- a suitable venue for Assembly meetings,
- a provider of filming/live broadcasting services and streaming of meetings,
- a media liaison company for the Assembly,
- a provider of note-taking services,
- a provider of translation services.

Other expenses such as secretariat staff salaries, and the reimbursement of costs incurred while attending meetings were paid by the government.

Members of the Assembly received a €500 gift voucher at the conclusion of the Assembly to recognise their participation and contribution. In addition any necessary accommodation and meals were provided as well as out-of-pocket travel expenses.

ADMINISTRATIVE ARRANGEMENTS:

A secretariat, composed of civil servants seconded from the Department of the Taoiseach (Prime Minister) was established between July 2019 and January 2020 and began setting up the Assembly.

In October 2019, the former Secretary General of the European Commission, Dr Catherine Day, was [appointed](#) to chair the Assembly and 99 members [were selected randomly](#) by market research firm [Amarach Research](#) which had secured the public tender. A panel of 99 reserve or substitute members was also selected.

In part because of complications imposed by the COVID pandemic, 42 substitute delegates served for various periods over the life of the Assembly. Attendance rates averaged 80% across all meetings.

In line with the parliamentary resolution, an Expert Advisory Group was formed to assist the work of the Assembly in terms of preparing information and advice.

A Steering Group was also established comprising the Chair and a representative group of Assembly members elected by the Assembly and supported by the Assembly secretariat. Steering groups for various Citizens' Assemblies have ranged from six to 12 members.

THE ASSEMBLY AT WORK:

An introductory meeting on 25 January 2020 was held at Dublin Castle and the first full working meeting of the Assembly took place 15-16 February 2020 at the [Grand Hotel Malahide](#) in Dublin which had been chosen by public tender. However, work was suspended and later moved online once the COVID pandemic hit with a pilot session held on 4 July 2020 followed by seven online meetings between October 2020 and April 2021.

The Assembly approved [45 recommendations](#) by online voting at its final meeting on 17-18 April 2021. Its report to the Irish Parliament was [released in June 2021](#).

CONTNUED NEXT PAGE:

Assembly advises and government decides

FROM PREVIOUS PAGE:

Three of the 45 recommendations related to proposals to alter the Irish Constitution to:

- ensure current constitutional protections afforded to families were guaranteed to non-traditional married families,
- remove the so-called “woman’s place in the home” terminology in the Constitution’s Article 41.2,
- enshrine explicit constitutional recognition for the principles of gender equality and non-discrimination.

To achieve these aims the Assembly proposed referendums to:

- amend Article 40.1 of the Constitution to refer explicitly to gender equality and non-discrimination.
- delete Article 41.2 and replace it with language that is not gender specific and obliges the State to take reasonable measures to support care within the home and the wider community, and
- amend Article 41 of the Constitution to protect private and family life, with such protection not limited to the traditional marital family.

The latter two proposed changes soon became known by shorthand descriptions as the “care” and “family” amendments.

The remaining 42 recommendations related to specific public policy changes in areas including financial support for carers, gender quotas for political parties, gender balance on private and public sector boards, battling domestic, gender and sexual-based violence, and gender pay gaps.

COMMITTEE CONSIDERATION:

In March 2022 a special time-limited joint committee of 14 members of the Irish Parliament drawn from both its lower and upper houses [discussed](#) the Assembly’s report.

It was given until December 2022 to deliver its own report on the Citizens’ Assembly’s recommendations. The committee held 23 public meetings and received 60 submissions.

In relation to constitutional matters, [the joint committee’s report](#) recommended three referendums be held in 2023 in line with the Citizen’s Assembly’s recommendations and provided suggested wording (*at right*) to achieve the desired reforms.

JOINT COMMITTEE RECOMMENDATIONS

PERSONAL RIGHTS

ARTICLE 40.1

1 All citizens shall, as human persons, be held equal before the law.

This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function.

40.1 REPLACEMENT TEXT:
 All citizens shall, as human persons without distinction as to sex, be held equal before the law.
 The State shall in its enactments have due regard to the principles of equality and non-discrimination.

THE FAMILY

ARTICLE 41

1 1° The State recognises the Family as the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law.

2° The State, therefore, guarantees to protect the Family in its constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the Nation and the State.

2 1° In particular, the State recognises that by her life within the home, woman gives to the State a support without which the common good cannot be achieved.

2° The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home.

3 1° The State pledges itself to guard with special care the institution of Marriage, on which the Family is founded, and to protect it against attack.

2° A Court designated by law may grant a dissolution of marriage where, but only where, it is satisfied that –

- i there is no reasonable prospect of a reconciliation between the spouses,
- ii such provision as the Court considers proper having regard to the circumstances exists or will be made for the spouses, any children of either or both of them and any other person prescribed by law, and
- iii any further conditions prescribed by law are complied with.

3° Provision may be made by law for the recognition under the law of the State of a dissolution of marriage granted under the civil law of another state.

4 Marriage may be contracted in accordance with law by two persons without distinction as to their sex.

41.2.1 REPLACEMENT TEXT :
 The State recognises that care within and outside the home and Family gives to the State a support without which the common good cannot be achieved.

41.2.2 REPLACEMENT TEXT :
 The State shall, therefore, take reasonable measures to support care within and outside the home and Family.

41.3.3 REPLACEMENT TEXT :
 The State pledges itself to guard with special care the Family, including but not limited to the marital family.

FROM PREVIOUS PAGE:

The joint committee's recommendations – including its proposed wording of amended sections of the Constitution – were then reported to the Irish government via the parliament.

The wording recommended by the joint committee was provided to help shape the specific questions the government would put to voters on referendum day.

THE GOVERNMENT'S RESPONSE:

In March 2023 the then Taoiseach (Prime Minister) Leo Varadkar committed to holding referendums to give effect to the Citizens' Assembly and the joint committee's recommendations in relation to the need to broaden the description of families and to elimination sexist language in relation to women.

The government rejected the recommendation to enshrine principles of gender equality and non-discrimination in the Constitution. It was [suggested at the time](#) that the government feared future legal difficulties if a definition of gender were included in the Constitution.

Taoiseach Leo Varadkar said at the time: "Changing the Constitution is never straightforward. We always have to bear in mind how it might be interpreted by the courts."

But his government did agree to proceed with two referendum questions on the remaining issues which were to become the 39th and 40th [attempts to amend the Constitution](#) since 1937 of which 32 have been successful.

In November 2023 Varadaker [said](#) he planned to hold the referendums on International Women's Day, 8 March, 2024.

In December 2022 the government introduced the necessary bills to hold two referendums:

- the [Thirty-ninth Amendment of the Constitution \(The Family\) Bill 2023](#), and
- the [Fortieth Amendment of the Constitution \(Care\) Bill 2023](#).

Both bills included the wording the government intended to amend or replace in the relevant articles of the Constitution. (*above right*)

The wording proposed in the bills was different to the wording recommended by the joint committee.

On 14 December 2023 the Minister for Children, Equality, Disability, Integration and Youth, Roderic O'Gorman, introduced the bills and thanked both the Citizens' Assembly and the joint committee for their work.

O'Gorman – a Greens MP in the coalition government that also included the Fianna Fáil

IRISH GOVERNMENT'S FINAL PROPOSED AMENDMENTS

41.1.1 INSERT

After "Family" add the words "whether founded on marriage or on other durable relationships".

THE FAMILY

ARTICLE 41

1 1° The State recognises the Family as the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law.

2° The State, therefore, guarantees to protect the Family in its constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the Nation and the State.

2 1° In particular, the State recognises that by her life within the home, woman gives to the State a support without which the common good cannot be achieved.

2° The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home.

41.2.1 DELETE

"In particular, the State recognises that by her life within the home, woman gives to the state a support without which the common good cannot be achieved."

41.2.1 INSERT

"The State recognises that the provision of care, by members of a family to one another by reason of the bonds that exist among them, gives to society a support without which the common good cannot be achieved, and shall strive to support such provision."

and Fine Gael parties – [acknowledged](#) that there had been some frustration at the time it had taken for the government to settle on a form of words for the amendments.

But he also said "constitutional change should not be taken lightly, and intensive work was needed to ensure we landed on the right formula of words".

He went on to say the work was undertaken by public servants.

"The interdepartmental group which dealt with this matter was chaired by my department and included representatives from all departments and the Office of the Attorney General," O'Gorman said.

He said on the so-called "family" amendment the government had decided new wording would be best located in Article 41 and not in Article 41.3.1 – as suggested recommended by the joint committee – which focussed more on marriage.

THE CAMPAIGN:

At the start of the referendum campaign the Electoral Commission published [details of the referendum questions](#) and summaries of what voters were being asked to support.

Most of Ireland's major political parties – Fine Gael, Fianna Fáil, Sinn Féin, the Green Party, Labour, Social Democrats, and People Before

Profit – [backed a "yes-yes" vote](#) with some being more enthusiastic than others.

The government's approach to the two suggested constitutional changes drew some criticism for not being in line with the Citizens' Assembly suggestions and the joint committee's recommendations, and [there was particular disagreement](#) over the strength of the wording of the proposed "care" amendment.

The independent voluntary group [Free Legal Advice Centres](#) said it supported the family amendment but [described](#) the care amendment as "ineffective", "implicitly sexist" and potentially compromising the rights of people with disabilities.

For some observers and participants in the campaign, including some opposition parties the debate on the "care" amendment in some instances became more about actual government care initiatives and programs rather than a discussion of an in-principle commitment in the Constitution.

Labour Party leader Ivana Bacik described the proposed changes as a "step [forward](#)" but said she and her party would continue to push for better support for carers after the referendum.

CONTINUED NEXT PAGE:

Two amendments comprehensively rejected

FROM PREVIOUS PAGE:

While [calling for a “yes-yes” vote](#), Sinn Féin party leader Mary Lou McDonald said the government had failed to adopt the Citizens' Assembly recommendation, which proposed deleting the “women in the home” clause from the Constitution and substituting non-gender-specific language that obliged the State “to take reasonable measures to support care within the home and wider community”.

Instead, she said, the wording on the referendum ballot paper said the State would “strive to support” care.

The small party [Aontu](#) called for a “no-no” vote, saying the family amendment was “a solicitors' paradise, virtue-signalling amendment a million miles from the lived reality of people's lives”.

It said the “care” amendment if passed would mean the State would not be obliged to care for individuals but only “strive to help” them.

Varadkar claimed there had been [“scaremongering”](#) over the proposed “family” amendment.

He was referring to predictions of potential legal fights over people's wills and estates by those involved in multi-partner relationships.

The Irish Catholic Bishops' Conference [was critical](#) of both proposed amendments.

They said the “family” amendment would “diminish the unique importance of the relationship between marriage and family in the eyes of society and State and is likely to lead to a weakening of the incentive for young people to marry”.

They also said the “care” amendment would “have the effect of abolishing all reference to motherhood in the Constitution and leave unacknowledged the particular and incalculable societal contribution that mothers in the home have made and continue to make in Ireland”.

THE RESULTS:

Both referendum questions received [overwhelming “no” votes](#) (see table). The “family” amendment was rejected by 67.69% of voters and the “care” amendment's “no” vote – 73.93% – was the highest ever “no” vote [in any Irish referendum](#).

Leo Varadkar [said](#) that the two referendums had been “defeated comprehensively on a



MARCH 8 2024 IRISH REFERENDUM RESULTS			
	PROPOSED 39 th CONSTITUTIONAL AMENDMENT THE “FAMILY” AMENDMENT	PROPOSED 40 th CONSTITUTIONAL AMENDMENT THE “CARE” AMENDMENT	
“YES” VOTES	487,564	393,053	
“NO” VOTES	1,021,546	1,114,404	
“YES” V “NO”	32.31% 67.69%	26.07%	73.93%
TURNOUT	Approximately 44% – more than 1,525,000 out of a total eligible 3,438,566 voters		

SOURCE: The Electoral Commission

respectable turnout”. He [resigned his position](#) as head of the government within days. He has since been [replaced](#) by former higher education minister Simon Harris.

THE BLAME GAME:

Common themes in reasons given for the referendum defeats were the vague nature of the proposed changes to the Constitution, fears that the “care” amendment would allow governments to reduce their commitment to care services, and confusion over specific wording such as the government's choice to use the term “durable relationships” in the “family” amendment.

The government's wording differed from that recommended by the joint parliamentary committee which suggested a more expansive definition of “family.”

Similarly, on the “care” question the Citizens' Assembly had [called](#) for stronger language that obliged the government to protect women's rights.

After the referendums failed former Fine Gael justice minister Charlie Flanagan said he had given “careful consideration” in 2018 to the idea of deleting the “woman's place is in the home” wording issues but ultimately [decided not to proceed](#) at that time.”

He said his preference was straight deletion of the existing words.

“But I looked at various forms of wording if we weren't going on straight deletion and I found it extremely complex and I postponed consideration,” he said.

“Unfortunately, [Equality Minister] Roderic O'Gorman jumped on the landmine with his eyes wide open and brought his colleagues with him.”

Associate Professor at the University of Limerick School of Law, Laura Cahillane, [said](#)



Leo Varadkar



Simon Harris

the government had been warned about its choice of words.

“Opposition parties and many others were warning that this wording was a little bit confusing to people,” she said.

“But there seemed to be little interest in the government to listening to concerns on the wording, and maybe a little arrogance in believing that voters would get carried away on a wave of feminism on International Women's Day.”

Expert in deliberative democracy, Professor David Farrell of the School of Politics and International Relations at University College Dublin, said: “These referendum defeats call into question a number of things, but high among them is the dismissive treatment of the Citizens' Assembly (and the parliamentary committee on gender equality) by government.”

Professor Farrell [acknowledged](#) that the government should not automatically accept such recommendations, but the work of the Assembly and the joint committee should have been given more respect, not ignored.

While still prime minister in the immediate aftermath of the referendums, Leo Varadkar [admitted](#): “We struggled to convince people of the necessity of the referendums at all, let alone the detailed wording.”

A colourful analysis with apologies

[Professor Colum Kenny](#), chair of the Masters in Journalism program at the School of Communications, Dublin City University, provides a frank assessment of the referendum results.



Here, in a word, is why the double referendum was lost. People thought it was BULLSHIT.

Apologies for the rude word. I did use the politer “vacuous” in January when calling for a “no” result.

However, politicians who supported the proposals may simply be too out of touch to understand what happened — unless it's spelled out in big, bold letters.

The public have had enough empty posing and not enough good governance.

This was not a “failure of communications” or “messaging”. You can put lipstick on a pig but it's still a pig. And people saw through the public relations and virtue signalling.

The emperor had no clothes. And here is who is to blame for the expensive shambles:

1. The government: Fine Gael, Fianna Fáil and the Greens all peddled nonsense. The wording was hopeless, the arguments in favour sometimes dishonest. Ireland's Constitution was maligned by ministers claiming for example that it said a woman's place is in the home. It does not.

2. The opposition: Sinn Féin and the Labour Party failed to provide good, honest opposition. Their job was to oppose a bad proposal, not to try and have it both ways.

3. The NGOs: The National Women's Council and other bodies said the proposal was not really what they wanted. But they supported it anyway. Their “step-in-the-right direction” mantra was at best politically naive and at worst reflected a cosy funding relationship with the Government.

The referendum was not what the Citizens' Assembly or disability rights groups wanted.

It was the second time in a row an assembly recommendation was cherry-picked to support a lesser proposal. The first time was in respect to blasphemy. Ireland set an example in the concept of a Citizens' Assembly, which was praised abroad. It has now undermined it cynically.

Attempts to portray those wanting a “no” vote as backward were offensive and counter-productive. I met a number of people voting “no” who did so despite the fact bishops wanted a “no” vote.

People made up their own minds. Women did not find their fundamental rights strengthened. And then there was “durable relationship”, which the [Parliament] failed to define in legislation. At least judges will not have the whole mess foisted on them to sort out now.

Schools were shut so polling could take place on International Women's Day instead of on Saturday.

Will the Government ensure these children get back a valuable day's lost education? Or is that not included in its support for “caring families”?

Ironically, they chose [International Women's Day] to try to cut from the Constitution its recognition of the State's responsibility to endeavour to ensure that mothers are not forced by economic necessity to work outside the home to the neglect of children. Smart move, guys.

But the good news is the proposed changes were never necessary in order for [Parliament] to introduce new supports for carers and families.

All those things that ministers promised would be possible after the referendum can be done anyway. Or was that “vacuous” too?

From [The Irish Independent](#)

Presentation of proposals was a problem

Professor in Family Law at University College Cork, [Louise Crowley](#), said there was a confusion surrounding the wording of both proposed amendments to the Constitution.

“In my mind it could have been quite an emphatic yes/yes,” she said. “But the way it was presented, and unfortunately, some of the scaremongering that was put out there when actually there were some very clear explanations that could be provided to allay fears of individuals.

“But I do understand absolutely why we had a no/no, and I think the level of confusion and the lack of clarity that was entirely unnecessary in terms of what we put to people is what has got us where we are today in this disappointing place.”

Professor Crowley said people didn't agree with the way the amendments were presented and worded.

They should have been presented differently to achieve what she said were actually “quite clear objectives”.

“They were just articulated so poorly in the wording,” Professor Crowley said.

“You couldn't blame people for either being confused or not accepting the way they were presented,” she said, adding that there had been a need to “create proposals that people can understand”.

“By simply removing the reference to marriage [in the “family” amendment], we opened the door for recognition of stable families that weren't based on marriage.

“Similarly, when we introduced divorce, the proposals as they would manifest in legislation were issued in advance so that we could provide all the information people need, so there was information and a clarity gap here

UCC Professor
Louise Crowley



that could be filled. And people like myself tried to fill it.

“But again, clarity wasn't there for people who are going out to vote. If the clarity isn't there, you're more inclined to vote ‘no’.

“It is very disappointing because there are so many families that deserve better and children born outside marriage, to be born into families that our Constitution says are not equal to families based on marriage.

“That seems so unfair in our modern society,” she said.

From [The Irish Independent](#)

Careless wording to blame

For me and many others, a “yes” to the family referendum was a no-brainer: it proposed broadening the definition of a family beyond marriage to include those in “durable relationships”.

But the care referendum was much more complex. The referendum proposed removing Article 41.2, dubbed the “woman in the home” provision, and replacing it with wording that could see families saddled with the responsibility to provide care, while the state would “strive” to support them.

In its analysis of the amendments, the [Free Legal Advice Centres](#) (FLAC) worried that the wording of the proposed amendment was “ineffective” and was “unlikely to provide carers, people with disabilities or older people with any new enforceable rights or to require the state to provide improved childcare, personal assistance services, supports for independent-living, respite care or supports for children with disabilities”.

I resented the government for trading social inequalities, and replacing sexist language with ableist language. My identities as a woman and as a disabled person were in conflict.

As a disabled woman, my experience of inequality differs from that of my non-disabled peers. My younger brother and I both have a progressive neuromuscular condition so the concept of care plays a big role in our lives.

His condition is much more advanced than mine, and he is 100% reliant on my parents and his nine hours of weekly government-funded care. For able-bodied women, this referendum is about relieving an obligation to care – an obligation that women have been unfairly saddled with for centuries.

But as a disabled woman, I need society to be more caring, not less. The failure of the yes campaign to even acknowledge this tension has been a great source of vexation for me over recent weeks.

Journalist and disability advocate [Niamh Ni Hoireabhaird](#) had specific and personal reasons for voting against the “care” amendment, but is prepared to consider the issue again if a different question is put in the future.

I felt that the rights of disabled people were being sacrificed by mainstream activists and NGOs who campaigned for a “yes” vote, ignoring the pleas of disabled people and carers. I worry constantly about my ageing parents, who are already struggling to cope with the physically laborious task of caring.

What will happen to my brother as my parents get older? Who will take care of them in their old age? And what about me?

I despair when I think about a future in which my husband is forced to give up his job, rely on carer’s allowance and dedicate his life to my care. I want to live an independent life, which only state-provided care can offer me.

I felt the tide turning towards a “no” vote when an interview clip of Ireland’s [then prime minister] Leo Varadkar amassed huge popularity on social media. Varadkar spoke about caring for his family members and said: “I don’t actually think that’s the state’s responsibility to be honest. I think it’s very much a family responsibility.”

The outrage was immediately palpable online. Varadkar was eager to clarify his statement and claim that he had been misinterpreted, but the damage was done.

The wording of the care referendum was perceived as yet another government failure over disability rights, the most recent of which was a “degrading and humiliating” proposal to reform welfare payments.

Some feminists rejected the proposals because they didn’t go far enough – and yes, some people will have voted them down because they want to keep women in the home.



But the decisive defeat of the care referendum wasn’t a win for Ireland’s far right. Anyone who suggests that is glossing over the admirable work of disabled people, carers and their allies who want to hold the state accountable.

The government would be making a grave mistake if it underestimates the political appetite for change and chalks the result up to conservative groups. Instead it must recognise the public desire for true equality and progress rather than tokenistic referendums that divide activists and NGOs.

I would be very happy to revisit a care referendum with a different text in the future, under a different government that respects the autonomy of disabled people. That would guarantee a “yes” from me.

The failure of the referendum is a victory for Ireland’s disability community, and I am relieved that Ireland did not vote to abdicate the state’s responsibility to care for its citizens.

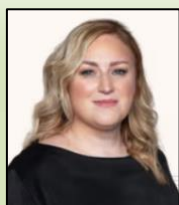
But the archaic language that defines women’s role as in the home will continue to sit in our country’s constitution until a government is willing to deliver equality for all. We take no comfort in that.

This is an edited version of a column that [first appeared in The Guardian](#)

Other views

Much has been written in the wake of the Irish referendum defeats on 8 March.

Here are links to articles by two more analysts outlining their thoughts on why the referendum questions were rejected so strongly by voters.



“A cynic might surmise that these referendums were set up to fail, such were the confusing and lacklustre campaigns and the rushed means of launching them.”

Dearbhail McDonald – Irish journalist and author
Read more at [The Guardian](#)

“While no exit polling gave any comprehensive account of why these referendums were defeated, what is clear is that the symbolic aspects of them – the mere signalling of values they represented – failed to resonate with the public.”

Dr Eoin Daly – constitutional specialist at the University of Galway
Read more at [The Conversation](#)



The trouble with bipartisan support

We need a better process for constitutional change

In the wake of the defeat of the referendum question on a Voice to Parliament for First Nations' peoples many commentators said there should be no further referendum on any issue unless bipartisan support for a change could be guaranteed.

The Real Republic Australia suggests that there is one major flaw in pursuing bipartisan support for referendum questions – it simply won't be achieved.

Take for instance a potential referendum question to change our [Australian Constitution](#) to mandate fixed four-year terms for the House of Representatives – the chamber in which governments are formed .

In the previous few decades all states and territories have shifted from three-year parliamentary terms to four-year terms with Tasmania the only state whose four-year term isn't fixed.

The benefits for our national governance and for taxpayers of four-year terms at the federal level are obvious, at least to us.

Federal governments would have a chance to escape somewhat the “constant campaigning” model that now intrudes on their decision-making. No sooner are they elected for three years than it's time to start eyeing the next election, which inevitably colours the pace and quality of decisions.

In sheer financial terms there are big and measurable benefits.

Figures [published by the Australian Electoral Commission](#) show that the 2022 election for the House of Representatives and half the Senate cost taxpayers more than \$522 million. That was more than \$150 million more than the 2019 election.

The day or year is not far away when a federal election will cost taxpayers \$1 billion.



OUR VIEW

Add to that the fact that elections are costly exercises for political parties and independents seeking office.

AEC figures show Australian political parties [spent \\$418 million](#) in the year leading up to the 2022 federal election.

Eliminating one costly election every 12 years would save them money but, more importantly, reduce their need for fundraising including from vested interests – the source of both real and perceived conflicts of interest, influence peddling, and possibly outright corruption.

So there are strong arguments in favour of four-year terms with a fixed election day. Of course there are always arguments against.

But does there exist bipartisan support for a referendum to make a change?

In January Prime Minister Anthony Albanese dismissed a reporter's question about the prospect of an early federal election before its due date of around May 2025.

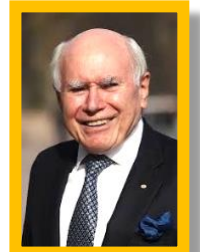
The PM's answer at a news conference on 3 January included an expression of his personal opinion that our current three-year terms for the House of Reps are too short and that [four-year terms would be better](#).

His support for a longer term [was backed](#) by Opposition Leader Peter Dutton who said he would be prepared to discuss the idea with the PM.

CONTINUED NEXT PAGE:



Yes to 4-year terms. But fixed terms?



Yes to 4-year terms but not fixed.

Yes to fixed 3-year terms.



None of the above!

Plenty of food for thought....



Activist, thinker, philanthropist, and author [EVERALD COMPTON](#) has imagined a number of get-togethers involving the framers of the Australian Constitution and some of our nation's more colourful political identities from the decades that followed Federation. His book

DINNER WITH THE FOUNDING FATHERS

is an entertaining and provocative read for anyone interested in learning the lessons of our past that can help shape our future.

CLICK ON [THIS LINK](#) TO BUY YOUR COPY!



Assemblies must shape the questions

FROM PREVIOUS PAGE:

But Mr Dutton also pointed to public cynicism about “making life easier” for politicians, the fact that another referendum would be required and that after the defeat of the Voice in October he believed any referendum on anything is unlikely in the near future.

Former Liberal Party PM, John Howard, expressed his support too but stopped short of backing fixed election days.

Another former Liberal prime minister Malcolm Turnbull said [he supported four-year terms](#) but was agnostic on having fixed terms. Mr Turnbull went as far as saying “just about everyone in politics would agree it makes much more sense” to have four-year terms.

Unfortunately he overlooked the position of the Greens who support [fixed three-year terms](#) for the House of Representatives in rare agreement with [One Nation leader Pauline Hanson](#).

Yet another former Liberal PM, Tony Abbott, declared [his opposition](#) to four-year terms arguing that for “a bad government” an election couldn’t come soon enough – echoing a sentiment used in 1975 to justify the Whitlam government’s sacking – and that we need “more democracy not less”.

Add to all of the positions above the inevitable debate on whether to alter Senate terms to four or eight years or to leave them at six years, and it’s easy to see how difficult if not impossible it would be to secure bipartisan support for a proposal many voters might regard as relatively simple and beneficial.

The answer as far as the Real Republic Australia is concerned is not to seek possibly



WHAT WE ADVOCATE

On the issue of the term lengths for our federal parliament, here’s what the Real Republic Australia advocates:

- **fixed four-year terms for the House of Representatives giving greater certainty, better decision-making, and greater fairness by ending the ability of prime ministers to pick their own election dates often by cutting short a parliamentary term,**
- **fixed four-year terms for the Senate which would require a separate referendum to alter [Section 7](#) of the constitution,**
- **elections for both Houses held on the same day to prevent the mandate of any government being frustrated by Senators elected years prior to the new government formed in the lower**

We have outlined our own ideas for similar Australian Constitutional Assemblies to do the heavy lifting in the early stages of possible constitutional changes by eliminating politicking and analysing expert evidence while also identifying and shooting down misinformation and disinformation long before voters go to polling stations. (See [link to our “roadmap” below](#))

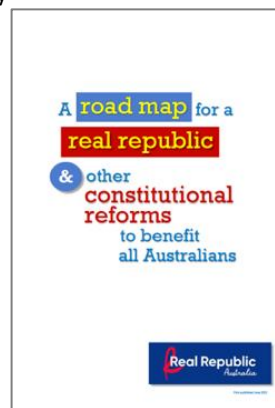
But there appears a widespread view among Irish political observers that while their system of Citizens’ Assemblies worked to deliver reasonable referendum proposals, the government there botched the process by injecting its own wording for the two referendum questions – even departing from the recommendations of a joint parliamentary committee that had formulated suggested wording based on the Citizens’ Assembly’s outcomes.

So while a participatory system such as the Citizens’ Assemblies in Ireland or our own idea for Australian Constitutional Assemblies may deliver non-partisan outcomes, we need to ensure they also have at least an advisory role in approving the final wording of referendum questions.

unattainable bipartisan support for any future referendum proposals, but to embrace a new process that we believe can deliver something far more valuable and effective – non-partisan support.

Which brings us to the failed Irish referendum questions. We have long embraced the idea of having our own version of the system of Citizens’ Assemblies used in Ireland to consider constitutional changes as well as to examine possible government responses to public policy issues.

Lindsay Marshall
Editor



[Read our Roadmap for a Real Republic and other constitutional reforms](#)

Our newsletter

Constitutional Conversation is published quarterly by the Real Republic Australia to promote debate about potential changes to the Australian Constitution including a republic with a directly elected Head of State.

The Real Republic Australia was founded by Brisbane’s longest-serving Lord Mayor, the late Clem Jones (1918-2007) who led a team of Queensland delegates to the Constitutional Convention held in Canberra in February 1998.

They and delegates from other states believed that only a model for a directly elected Head of State would be approved by voters at a republic referendum.

Unfortunately, the failed 1999 republic referendum proved them correct. In line with his wishes, the Real Republic Australia continues to campaign for a republic based on the direct-election model.



Clem Jones



Contact us if you wish to receive a free copy every quarter.

Editor: Lindsay Marshall
lindsay@clemjonesgroup.com.au

PO Box 8198
Woolloongabba Qld 4102



[Facebook](#)



[Linked-In](#)



[X/Twitter](#)



[Instagram](#)